

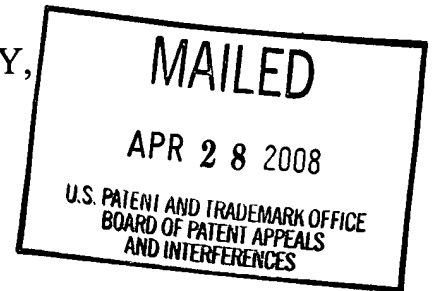
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LEE CANNON, MIKE MARONEY,
ROBERT GUINN, MICKEY ROEMER,
WILLIAM R. ADAMS, AND
JASON DEGRANDMAISON

Application No. 09/655,252

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was received electronically at the Board of Patent Appeals and Interferences on March 13, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

On August 26, 2005, Appellants filed an Appeal Brief. On page 4 of the Appeal Brief, under the heading "Grounds of Rejection to be Reviewed on Appeal," the Appellant listed the following ground of rejection:

1) Whether claims 48-50, 54, 55, 59-63, 78-84, 92-97 and 111-115 are over Kelly et al., U.S. Patent 4, 816,918, in view of **Deaton et al., U.S. Patent No. 5,642,485.**

An Examiner's Answer was mailed on December 22, 2006 in response to the above noted Appeal Brief. While page 2 of the Answer notes that "[t]he appellant's statement of the grounds of rejection to be reviewed on appeal is correct . . .," the Examiner's statement of rejection corresponding to the above note ground states:

Claims 48-50, 55, 59-63, 78-84, 92-97 & 111-122 are rejected under 35 U.S.C. 103(a) as being over Kelly et al. (U.S. Patent Number 5,816,918) in view of **Deaton et al. (US Patent Number 5,621,812).**

Thus, the record is not clear as to which Deaton reference was relied on by Appellants during the prosecution of the application.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to contact Appellants to clarify which Deaton reference was relied on in the Appeal Brief; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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Chief Appeals Administrator

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